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SENSITIVE

STATE FOR EAP/BCLTV AND EB/TPP/BTA/ANA GOODMAN AND WICKMAN
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SUBJECT: EAP DAS Eric John Meets AmCham and MOT Vice Luong Van Tu

SENSITIVE - NOT FOR INTERNET DISTRIBUTION

1. (SBU) Summary: In a September 27 luncheon with AmCham Board members and a separate meeting with Vice Minister of Trade Luong Van Tu, Deputy Assistant Secretary Eric John discussed Vietnam's WTO accession and BTA implementation. AmCham members expressed growing concern about the draft investment law's illiberal provisions on business licensing for domestic and foreign firms, their lack of opportunity for effective dialogue with the Vietnamese Government (GVN) on business issues, and the public perception in Vietnam that the United States is delaying Vietnam's WTO accession. VM Tu urged the United States to accelerate Vietnam's WTO accession, in fulfillment of President Bush's June commitment to Prime Minister Phan Van Khai. He distinguished Vietnam from China, stressing that Vietnam has a much smaller volume of trade and that it imports from the United States many of the inputs used in its exports. He complained that the United States is expecting Vietnam to do more than other countries. DAS John affirmed that the USG wants Vietnam to accede to the WTO as quickly as possible, but on acceptable commercial terms. End Summary.

AmCham Luncheon

2. At a September 27 luncheon hosted by the American Chamber of Commerce in Vietnam (AmCham), EAP Deputy Assistant Secretary (DAS) Eric John, accompanied the Ambassador, Ho Chi Minh City Consul General Seth Winnick, poloff and econoff, discussed business concerns. AmCham Board members were worried about some of the legislation that Vietnam is drafting to meet WTO accession requirements, particularly the proposed law on investment. (Comment: Under the current investment law draft, both domestic and foreign companies would have to undergo onerous investment licensing procedures that presently apply only to foreign investors. U.S. businesses had expected the new law to extend the current relatively simple registration procedures for domestic businesses to foreign companies. The AmCham representatives expressed concern that the current draft of the investment law could choke off the growth of the private sector in Vietnam. End comment.) According AmCham's information, the Vietnamese National Assembly is likely to pass the law on schedule rather than reconsider it.

3. (SBU) The Ambassador asked if the AmCham had lobbied against the draft law. AmCham members admitted that they had few contacts with National Assembly members, and those few contacts tended to be for the Assembly to explain its position rather than to work out problems. In general, AmCham members felt they had few opportunities to bring their concerns to the attention of Vietnamese authorities; the meetings they did have offered no chance to follow up. Many U.S. companies hesitated to bring concrete complaints for fear of provoking unwanted attention from government regulators. They noted an increase in regulatory inspections since publicizing their paper on WTO concerns. AmCham members stressed the importance of USAID's Support for Trade Acceleration Project (STAR)(providing technical assistance on trade related laws and regulations) as an avenue to get good policy advice to the Vietnamese government (GVN). However, they noted that STAR's focus is on the implementation process of the Bilateral Trade Agreement (BTA). Members were also concerned about the public perception in Vietnam that the United States was to blame for delaying Vietnam's WTO accession.

Vice Minister of Trade Tu: Speed Up

4. (SBU) EAP DAS Eric John, accompanied by ADCM Sam Watson, poloff and econoff notetaker, met with Vice Minister of Trade Luong Van Tu to discuss bilateral trade relations and Vietnam's WTO accession. Warmly welcoming Mr. John, Tu

noted that 2005 is the tenth anniversary of the reestablishment of bilateral relations and enumerated the many successes in the relationship, such as the visits of President Clinton in 2000 and Prime Minister Phan Van Khai this year. DAS John said that it was wonderful to be back in Vietnam, which he regarded as his home in Southeast Asia since he had served two overseas tours related to Vietnam. He was amazed at the pace of development of bilateral relations. The bilateral issues that we are dealing with now, such as WTO, are the kinds of issues that close friends work on together.

15. (SBU) VM Tu made a strong pitch for the U.S. side to show more flexibility on WTO. He pointed out that the BTA duplicates many of the WTO's requirements and claimed that Vietnam is ahead of schedule in implementing it. He also stressed that President Bush, in his meeting with Prime Minister Phan Van Khai, had made a commitment to Vietnam to support Vietnam's WTO accession. Tu urged the United States to consider Vietnam as a developing country that needs time to adjust. Contrasting Vietnam and China, he argued that Vietnam's services offer was as good as China's, and hoped the United States would accept it, saying that it was beyond Vietnam's capability to do more. He also hoped that the United States would not ask Vietnam for WTO plus terms. He argued that, compared with China, the volume of Vietnam's trade is small. Furthermore, unlike China, which has its own raw material resources, Vietnam imports U.S. raw materials to produce its exports.

16. (SBU) The Vice Minister noted the progress made in Geneva, but asked for help in persuading USTR to accelerate the accession process, complaining that Vietnam had closed with all countries except the United States, New Zealand and Australia. He looked forward to the United States being an example for other countries expanding trade relations with Vietnam. Other WTO accession countries only had to show a plan to come into compliance with WTO standards before accession, but the United States and other working party members expected Vietnam to have its laws in place before joining. He thanked the United States for funding the STAR project and noted that Vietnam's National Assembly has or is in the process of passing some 27 new WTO-compliant laws.

17. (SBU) DAS John reaffirmed the U.S. commitment, expressed by President Bush, to work with Vietnam to achieve WTO accession as soon as possible. Vietnam has advanced towards accession at a "world record" pace, but the toughest issues now remain. It is unfortunate that there is a public misperception that the United States is standing in the way of Vietnam's accession. The United States is working towards a "perfect" accession for Vietnam, which means that Hanoi needs to improve its offer. The DAS also noted that it is important to keep in mind the importance of full implementation of the BTA for Congressional approval of permanent normal trade relations (PNTR) for Vietnam. Under the BTA, Vietnam was given a ten-year phase in, while the United States had to comply immediately. Some U.S. businesses are concerned that implementation under the BTA may be falling off pace. BTA implementation is important for three reasons: it is an obligation, it affects U.S. business, and it affects U.S. political support for PNTR.

18. (SBU) VM Tu responded that the Vietnamese side is making its best efforts to implement the BTA and had even gone further than required under the BTA in granting market access in some areas such as insurance, and was reviewing requests by some U.S. companies seeking earlier phase-in of rights. However, the Vietnamese side has concerns about U.S. implementation of the BTA, such as the opening of bank representation offices and establishment of telecommunications companies in the United States. Tu also noted that he would meet next week with the AmCham to discuss their concerns.

19. (SBU) DAS John said that there was concern that the proposed new investment law would increase rather than decrease regulation and was contrary to the spirit of the WTO. Tu emphasized that the draft investment law was still under discussion and that the GVN was taking comments. He also mentioned the draft IPR law and said that he believed the U.S. side was satisfied with it. ADCM Watson pointed out that there were still problems with IPR enforcement.

110. (SBU) VM Tu reiterated his concerns about U.S. BTA implementation. U.S. banks, he said, had been allowed to open 100 percent-owned banks in Vietnam, but Vietnamese banks had not even been allowed to open a representative office. The ADCM explained that the BTA did not exempt Vietnamese banks seeking to open offices in the United States from meeting U.S. regulatory requirements, including the requirement that foreign banks operating in the United States must come from countries that have effective anti-money laundering laws. Despite repeated requests, Vietnam had not given the U.S. side a chance to review and comment on its recently issued decree on money laundering.

11. The Vice Minister also claimed that the United States had not permitted market access for Vietnamese telecom companies. The ADCM expressed some surprise at this allegation and said that in his most recent visit to the Ministry of Posts and Telematics (MPT) the issue had not been raised. (Note: In Tu's September 6 letter to USTR (received on September 12), he referred to the case of the Vietnamese Telecommunication Company applying for the establishment of a joint venture in the U.S. and not being granted permission. Embassy forwarded this letter to Department and USTR. End Note.)

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